

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 244/07

Case overview

1. Mr X is aged approximately 32 and is a citizen of Vietnam. He claims that he has a wife and three children who reside in Vietnam.
2. Mr X arrived in Australia by boat in July 2003. He was detained under s 189(2) of the *Migration Act 1958* and placed at Christmas Island Immigration Reception and Processing Centre (IRPC). He was transferred to Perth Immigration Detention Centre in November 2004 after requesting to be returned to Vietnam, however, he withdrew this request after delays in obtaining a travel document and was returned to Christmas Island IRPC in April 2005.
3. The Department's (DIAC) decision to refuse Mr X's application for a Protection Visa (PV) in October 2003 was affirmed by the Refugee Review Tribunal in April 2004 and by judicial review at the Federal and Full Federal Courts. A request under s 195A resulted in the Minister granting Mr X a Temporary Protection Visa (TPV) in July 2005 and he was released from detention.

Ombudsman consideration

4. The DIAC report to the Ombudsman under s 486N is dated 21 July 2005.
5. Ombudsman staff interviewed Mr X together with two of his brothers, Mr Y and Mr Z, and his sister-in-law Ms A (who are the subject of Reports 243/07 and 241/07 respectively), on 27 October 2005.

Key issues

Health and welfare

6. Mr X told Ombudsman staff that he last saw his family in May 2003 and wanted to sponsor them to Australia. He expressed frustration that he could not do this while on a TPV.

Attitude to removal

7. Mr X fears that he will be persecuted by Vietnamese authorities because of his family's anti-communist beliefs, if he is removed to Vietnam.

Issues outside of detention


8. Mr X told Ombudsman staff that he was aware that he had a visa for three years only and was not aware, that as a holder of a TPV, he is entitled to apply for a PV at the conclusion of 30 months, or earlier at the discretion of the Minister.

Ombudsman assessment/recommendation

9. The Ombudsman notes that Mr X is now the holder of a TPV and makes no recommendations in this report.



Prof. John McMillan
Commonwealth and Immigration Ombudsman



Date